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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/511,113

03/23/2005

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102792-357/11017P4

9005

27389 7590 12/27/2006
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EXAMINER

REYNOLDS, STEVEN ALAN

ART UNIT

PAPER NUMBER

3728

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

12/27/2006

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/511,113	Applicant(s) VAN DIEPEN, JACOBUS SIMON PETRUS	
	Examiner Steven Reynolds	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/12/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means", "comprising" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 14 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claim 14 recites the limitation "the folds and double-folds" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

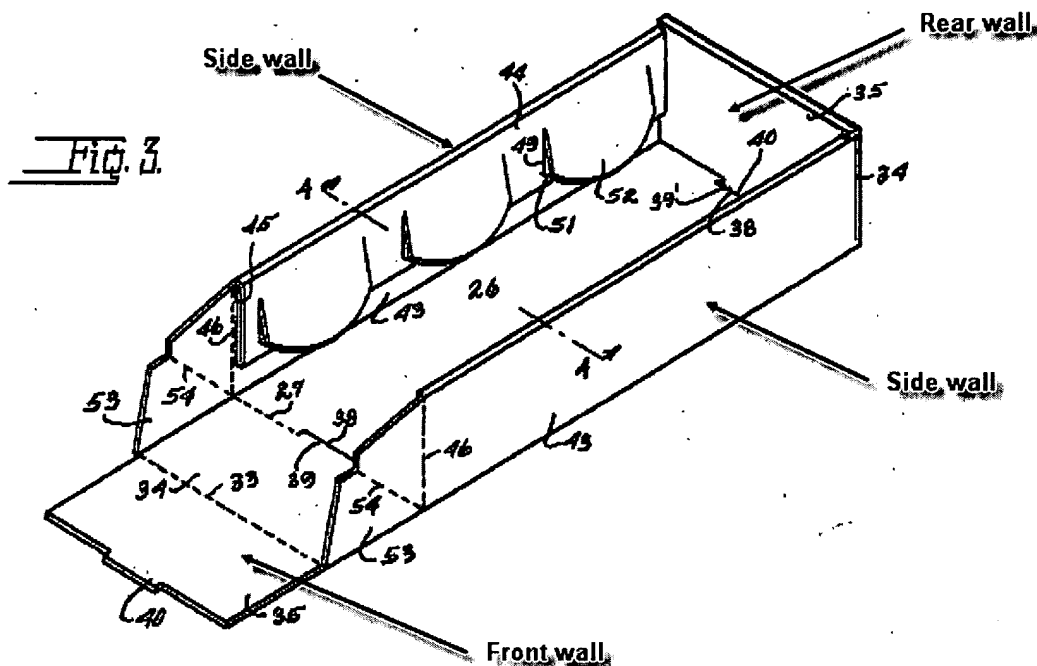
7. Claims 1, 2, 4, 5, 9, 10, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Steinbock (US 3,756,385). Steinbock discloses a display tray (12) for holding packages (14) comprising a bottom surface (16), a front wall (22), a rear wall (22) and two side walls (24) having flaps (28) in the area of their upper edges, the flaps projecting inwardly and being in a position departing substantially from the verticality, forming an angle with the vertical of more than 40 degrees (See Fig. 3 embodiment), characterized in that the flaps are arranged alternately on the side walls providing one flap per package (See Fig. 3 embodiment); wherein the flaps form an angle with the vertical of more than 60 degrees (See Fig. 3 embodiment); each flap is loosely engageable with one primary package (See Fig. 3 embodiment); said tray is made of a blank (See Fig. 1 embodiment), which is made of cardboard (See column 2, line 5); wherein the flaps form an angle with the vertical of more than 80 degrees (See Fig. 3 embodiment); and wherein the flaps form an angle with the vertical of more than 90 degrees (See Fig. 2 embodiment).

8. Claims 1-4, 8, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Lindstrom (US 4,542,847). Lindstrom discloses a display carton (12) for holding packages (pouches – See Fig. 1A embodiment) comprising a bottom surface

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(64), a front wall (24), a rear wall (18) and two side walls (20 and 22) having flaps (42 and 44) in the area of their upper edges, the flaps projecting inwardly and being in a position departing substantially from the verticality, forming an angle with the vertical of more than 40 degrees (See Fig. 1 embodiment), characterized in that the flaps are arranged alternately on the side walls providing one flap per package except for the last package (package toward rear wall is not engaged by the flaps – See Fig. 1 embodiment); wherein the flaps form an angle with the vertical of more than 60 degrees (See Fig. 1 embodiment); each flap is loosely engageable with one primary package; said tray is made of a blank (See Fig. 2 embodiment), which is made of cardboard (See column 5, line 1-2); wherein the front wall is substantially cut out (See Fig. 1 embodiment); and wherein the flaps form an angle with the vertical of more than 90 degrees (See Fig. 1 embodiment).

9. Claims 1, 4-7 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones (US 3,073,440). Regarding claim 1 and 9, Jones discloses a tray for holding packages (cans – See Fig. 6 embodiment) comprising a bottom surface (26), a front wall, a rear wall and two side walls (See figure below) having flaps (52) in the area of their upper edges, the flaps projecting inwardly and being in a position departing substantially from the verticality, capable of forming an angle with the vertical of more than 40 degrees, characterized in that the flaps are arranged alternately on the side walls providing one flap per package (See Fig. 5 embodiment).



Regarding claims 4-7 and 10, Jones discloses each flap is loosely engageable with one primary package (See Fig. 5 embodiment); said tray is made of a blank (See Fig. 1 embodiment), which is made of cardboard (See column 1, line 27); said side walls are double walled (See Fig. 3 embodiment); and the front and rear walls are fixed to the side walls by means of rough surfaces (adhesive 48 – See Fig. 1 embodiment), the front and rear walls are retained within the double walled side walls (See Figs. 1 and 3 embodiments).

Regarding claim 11, Jones discloses in each primary package (can – Seen in Fig. 6 embodiment) comprises at its side walls an indentation (side wall 57 indented from flange 59 - See Fig. 6 embodiment).

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Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

12. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (US 3,073,440) in view of Mueller et al. (US 3,258,191). As described above Jones discloses all the limitations of the claims except for the specifics of the blank.

However, Mueller et al. teaches a container made from a blank comprising side walls (44 and 48) with extensions (58 and 62) for engaging into grooves (56 and 60) punched on the bottom surface (10) when the blank is folded (See Figs. 1 and 3 embodiments) for the purpose of reinforcing the walls of the container; said blank comprises folds (13) and double folds (50/54), wherein the folds and double folds comprise small incisions (perforations along the fold lines – See Fig. 1 embodiment). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the sidewalls of Jones with the extensions and

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grooves as taught by Mueller et al. in order to better reinforce the walls to prevent collapse.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Reynolds whose telephone number is (571)272-9959. The examiner can normally be reached on Monday-Thursday 8:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SR
12/6/06


JILA M. MOHANDESI
PRIMARY EXAMINER